IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

RPFC.No. 2 of 2003()

MC.740/1999 of THE FAMILY COURT, MANJERI.
.....

PETITIONER: RESPONDENT:

KOLATHIL KOLLERITHODI KUNHALANKUTTY,
SON OF PAREEKUTTY, VAZHAYUR, PUTHUKKOD,
RAMANATTUKARA, MALAPPURAM.

BY ADV. SRI.V.G.ARUN

RESPONDENTS: PETITIONERS:
---

1. KALLADATH LAILA, D/O. MUHAMMED KOYA,
KALLADATH HOUSE, PUTHUKKODE P.O.,
RAMANATTUKARA, MALAPPURAM.

2. LABEEB MINOR REPRESENTED BY
FIRST RESPONDENT.

BY ADV. SRI.BABU S. NAIR [DELAY]

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.1259/2003 IN R.P.(F.C).NO.2/2003

CLOSED.

SD/- K.R.UDAYABHANU, JUDGE

18/09/2007

\\TRUE COPY//

K.R.UDAYABHANU, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

R.P.(F.C).No.2/2003-A

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dated this the 18th day of September, 2007

O R D E R

The revision petitioner is the respondent husband under orders to pay maintenance at the rate of Rs.500/- to the petitioner wife and minor child. The matter was decided expartee. It is submitted that he was working abroad and he could not be present to tender evidence. It is his case that he is not bound to pay maintenance to the first respondent wife as she herself has filed a complaint for the offence under Section 376 I.P.C against the younger brother of the revision petitioner and she had also filed a petition for maintenance against the younger brother of the petitioner claiming maintenance to the second child. According to the revision petitioner, the wife was living in adultery and he is not bound to pay maintenance to her.

In the circumstances, the order of the court below with respect to the first respondent/wife is set aside. The matter is remanded back to the court below with a direction that the court shall furnish opportunity to both the parties to adduce further evidence in the matter and dispose of the case on merits on condition that the

petitioner remits the entire arrears due to the second respondent minor child till date. The matter will stand posted before the court below on 30/10/2007. The first respondent wife will be entitled to withdraw the amount deposited with respect to the child. It is submitted that the custody application with respect to the minor child is pending. In case the custody of the second respondent is with the respondent, the first respondent will be entitled for maintenance amounts only till the date she was having the custody of the child. Send the lower court records back to the court below immediately.

The R.P.(F.C) is disposed of as above.

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

R.P.(F.C).No.2/2003-A

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

O R D E R

18th September, 2007